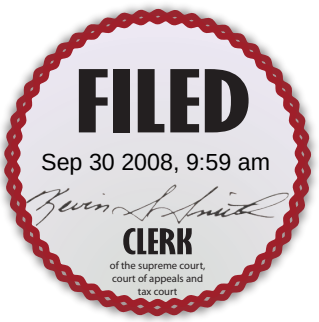

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IN THE
COURT OF APPEALS OF INDIANA

J. MICHAEL RAY,	)	
	)	
Appellant,	)	
	)	
vs.	)	No. 02A03-0802-CV-74
	)	
LAIDLAW MEDICAL TRANSPORTATION, INC., d/b/a AMERICAN MEDICAL RESPONSE OF FORT WAYNE,	)	
	)	
Appellee.	)	

APPEAL FROM THE ALLEN SUPERIOR COURT
The Honorable Nancy Eshcoff Boyer, Judge
Cause No. 02D01-0505-PL-209

September 30, 2008

MEMORANDUM DECISION – NOT FOR PUBLICATION

MATHIAS, Judge

J. Michael Ray ("Ray") appeals from the Allen Superior Court's grant of summary judgment in favor of Laidlaw Medical Transportation, Inc. d/b/a American Medical Response of Fort Wayne ("AMR") in Ray's "whistleblower" suit against AMR. Upon appeal, Ray claims that the trial court erred in concluding that Ray was required to have reported a violation of federal law or regulation in writing before he was protected under the whistleblower statute, Indiana Code section 22-5-3-3 (2005).

We affirm.

Facts and Procedural History

AMR is a private contractor providing ambulance services to the City of Fort Wayne. AMR contracts with the Three Rivers Ambulance Authority, a quasi-governmental entity which oversees ambulance services in the Fort Wayne area. AMR hired Ray as a paramedic in February 1997. According to Ray, he met with Tim Viega, an investigator with the federal Department of Labor on November 14, 2003, and verbally informed Viega that AMR required its paramedics and emergency medical technicians to attend mandatory training but refused to pay these employees for the time they attended the training. Neither Ray nor the Department of Labor has any record of this November 14 meeting. On November 21, 2003, AMR terminated Ray's employment, claiming various disciplinary reasons. On November 26, 2003, five days after he was discharged by AMR, Ray filed a written complaint with the Department of Labor, Wage and Hour Division, claiming that AMR owed its employees unpaid overtime and further claiming that he was discharged because he had previously made his claim known to the Department of Labor on November 14.

On May 12, 2005, Ray filed a complaint against AMR, alleging that AMR violated Indiana Code section 22-5-3-3 by discharging him for reporting AMR's violation of federal wage law to the Department of Labor. Ultimately, AMR filed a motion for summary judgment on May 7, 2007, to which Ray responded on September 7, 2007. On October 5, 2007, the trial court held a hearing on the summary judgment motion and took the matter under advisement. On January 23, 2008, the trial court entered an order granting summary judgment in favor of AMR. Ray now appeals.

Discussion and Decision

On appeal from a trial court's decision to grant or deny summary judgment, we apply the same standard as the trial court: summary judgment is appropriate only when the designated evidence shows that there are no genuine issues of material fact and that the moving party is entitled to judgment as a matter of law. Ind. Trial Rule 56(C) (2008); Ashbaugh v. Horvath, 859 N.E.2d 1260, 1264 (Ind. Ct. App. 2007).

Here the relevant facts are mostly undisputed, and the parties' arguments focus on the meaning of Indiana Code section 22-5-3-3, the so-called "whistleblower statute." The interpretation of statutes is a legal question reserved for the courts, and we review such questions *de novo*. Golden Rule Ins. Co. v. McCarty, 755 N.E.2d 1104, 1106 (Ind. Ct. App. 2001), trans. denied. As explained in McCarty, "[t]he first and often the last step in interpreting a statute is to examine the language of the statute." When dealing with an unambiguous statute, we do not apply any rules of statutory construction other than to give the words and phrases of the statute their plain, ordinary, and usual meaning. Id. at 1007.

Pursuant to the whistleblower statute, "[a]n employee of a private employer that is under public contract *may report in writing*" the existence of: (1) a violation of a federal law or regulation; (2) a violation of a state law or rule; (3) a violation of an ordinance of a political subdivision; or (4) the misuse of public resources. I.C. § 22-5-3-3(a) (emphasis added). The statute further provides that "[f]or having made a report under subsection (a), an employee may not . . . be dismissed from employment." I.C. § 22-5-3-3(b)(1).

Ray admits that he did not file a written report regarding the alleged violation of federal labor laws before AMR terminated his employment. However, Ray claims that AMR still violated the statute because it terminated his employment after he had made a verbal report to the Department of Labor. Ray argues that the statute is ambiguous and could be construed to protect employees who had made only verbal reports. We disagree.

The statute is not ambiguous; it states that an employee who has made a report "under subsection (a)" may not be dismissed from employment. I.C. § 22-5-3-3(b)(1). Subsection (a) plainly states that an employee "may report in writing" the existence of a violation of law. I.C. § 22-5-3-3(a). The word "may" does not mean that the report "may be in writing." It means that an employee "may report." And the report that may be made is a "report in writing." Therefore, before the employee may claim protection under the whistleblower statute, the employee must have made a report in writing before being terminated from employment. The statute provides no protection for an employee who made a non-written report.

Although Ray makes several arguments regarding public policy reasons for protecting employees from retaliation for verbal reports, such arguments are best directed

toward our General Assembly, which apparently chose not to protect employees who did not file written reports. As AMR notes, several states have whistleblower statutes which protect employees for making either written or verbal reports of violations. See, e.g., Conn. Gen. Stat. Ann. § 31-51m(b) (2003); N.H. Rev. Stat. Ann. § 275-E:2 (1999); Mich. Comp. Laws Ann. § 15.362 (2004) (all protecting from retaliation those employees who, either verbally or in writing, report violations of federal, state, or local law). Our statute could have been written to similarly provide protection for employees who report violations of the law either verbally or in writing, but it does not.

Because Ray did not make a written report of the alleged violations prior to his discharge, the whistleblower statute affords him no protection. The trial court therefore did not err in granting summary judgment in favor of AMR.

Affirmed.

BAKER, C.J., and BROWN, J., concur.